

**Baker & Hostetler LLP**

45 Rockefeller Plaza  
New York, New York 10111  
Telephone: 212.589.4200  
Facsimile: 212.589.4201  
David J. Sheehan  
Nicholas J. Cremona  
Dean D. Hunt

*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC  
and for the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of  
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

SCOTT NEWBERGER,

Defendant.

No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04611 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL  
OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated SIPA liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and Scott Newberger (“Defendant”), by and through his attorneys, Lax & Neville, LLP (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 1, 2010, the Trustee filed and served the Complaint against Defendant.
2. On April 25, 2012, the Clerk entered a certificate of default [ECF No.\_7] against Defendant.
3. On July 31, 2017, the Parties entered into a settlement agreement (the “Settlement Agreement”) pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [ECF No. 3181].
4. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendant in the above-captioned adversary proceeding and dismissal of the adversary proceeding without prejudice, subject to the right of the Trustee to move *ex parte* to re-open this adversary proceeding in the event of an uncured default under the terms of the Settlement Agreement.
5. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.
6. This Stipulation may be signed by the Parties in any number of counterparts, each

of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic, or electronic copy of this Stipulation shall be deemed an original.

New York, New York  
August 1, 2017

By: /s/ Nicholas J. Cremona  
**BAKER & HOSTETLER LLP**  
45 Rockefeller Plaza  
New York, New York 10111  
Telephone: 212.589.4200  
Facsimile: 212.589.4201  
David J. Sheehan  
Email: dsheehan@bakerlaw.com  
Nicholas J. Cremona  
Email: ncremona@bakerlaw.com  
Dean D. Hunt  
Email: dhunt@bakerlaw.com

By: /s/ Barry R. Lax  
**LAX & NEVILLE LLP**  
1450 Broadway, 35<sup>th</sup> Floor  
New York, New York 10018  
Telephone: (212) 696 – 1999  
Facsimile: (212) 566 – 4531  
Barry R. Lax, Esq.  
Email: blax@laxneville.com  
  
*Counsel for Defendant Scott Newberger*

*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation  
of Bernard L. Madoff Investment Securities  
LLC and the Estate of Bernard L. Madoff*

SO ORDERED

Dated: August 1<sup>st</sup>, 2017  
New York, New York

/s/ STUART M. BERNSTEIN  
HON. STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE